

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR**

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

CMA.No. 211 of 2000()

**(Against the order dtd.24-1-2000 passed in EA.No.779/1999 in
EP.No.326/1987 in OS.No.401/1979 on the file of the Principal
Sub Court, Ernakulam.)**

APPELLANT: Petitioner/Decree Holder:-

**THE BANK OF INDIA, REPRESENTED BY BRANCH OFFICER
AT THIRUVANIYOOR, COMMANAD VILLAGE,
KUNNATHUNAD TALUK.**

**BY ADV. SRI.K.N.NARAYANA PILLAI
SRI.P.VISWANATHAN
SRI.S.VIDYASAGAR
SRI.B.ANILKUMAR**

**RESPONDENTS: (Respondents 28 to 30 & 31 to 34 are the LR's. of the
deceased JDs. 19 & 2 respectively)/Respondents/Judgment Debtors:-**

- 1. THE COCHIN RUBBER COMPLEX, A FIRM REPRESENTED
BY MANAGING PARTNER 2ND DEFENDANT
P.N.KRISHNANKUTTY NAIR, PERUMBILLIL,
THIRUVANIYOOR, CHEMMANAD VILLAGE,
MANNATHUNAD TALUK, (DIED) NOW REPRESENTED BY
P.V.PAULOSE, S/O.VARKEY, RESIDING AT
PANICHEEKKUZHIYIL, THIRUVANIYOOR.**
- 2. P.N.KRISHNANKUTTY NAIR, S/O.NEELAKANDAN
NAMBOODIRI, RESIDING AT PERUMBILLIL,
THIRUVANIYOOR. (DIED).**
- 3. P.V.PAULOSE, S/O.VARKEY, RESIDING AT
PANICHEEKKUZHIYIL, THIRUVANIYOOR.**

(.....2)

- (**) 4. **K.V.CHATHAN, S/O.K.C.VALLON, RESIDING AT KUMMANNOR KUZHY, POOTHRIKKA. (DIED).**
5. **K.P.YOYANNAN, S/O.PAILY, RESIDING AT KARUVALIL, THIRUVANIYOOR.**
6. **K.K.GOPALAN, S/O.KRISHNAN, RESIDING AT NANTHILAKKATTU, POOTHRIKKA.**
- (*) 7. **A.C.CHACKO, S/O.CHACKO, RESIDING AT AMMATTUKUZHIYIL, THIRUVANIYOOR (DIED).**
8. **P.V.VARKEY, S/O.VARKEY, RESIDING AT PATTULLIL, THIRUVANIYOOR.**
9. **V.K.KURIACHAN, S/O.KURIAKOSE, RESIDING AT VETTIKKUZHIYIL, THIRUVANIYOOR.**
10. **P.N.KARUNAKARAN NAIR, S/O.PARAMESWARAN PILLAI, RESIDING AT PERUMBILLIL, THIRUVANIYOOR.**
11. **A.P.KUTTAPPAN, S/O.VENKAN, RESIDING AT VADACHIRAPPATTU, THIRUVANIYOOR.**
12. **T.K.ABRAHAM, S/O.PAILY, KARUVELIL, RESIDING AT KARUVELIL, THIRUVANIYOOR.**
13. **T.V.PAULOSE, S/O.VARKEY, RESIDING AT THANNIKUZHIYIL, THIRUVANIYOOR.**
14. **VITHAKUTTY, D/O.PAILY, RESIDING AT KARUVELIL, THIRUVANIYOOR.**
15. **K.P.KUNJU AMMA, D/O.PAILY, RESIDING AT VETTANGATTU MAMALASSERY, RAMAMANGALAM.**
16. **T.T.MARIAM, D/O.CHERIA THOMAS, RESIDING AT THADATHIL PUTHENPURAYIL, POOTHRIKKA.**
17. **MOLLY K.T., D/O.K.T.THOMAS, RESIDING AT KANJIRAPARAYIL, THIRUVANIYOOR.**
18. **A.P.SUSAN, D/O.PAULOSE, RESIDING AT ANJANAVEETIL, THIRUVANIYOOR.**

(.....3)

- 19. SRI.K.P.OUSEPH, S/O.PAILY, RESIDING AT KATHAMATTATHIL, THIRUVANIYOOR (DIED).**
- 20. MRS.SARA VARKEY, W/O.LATE P.V.VARKEY, PATTULLI HOUSE, THIRUVANIYOOR P.O., CHEMMANAD VILLAGE.**
- 21. YOHANNAN, S/O.P.V.VARKEY, DO. DO.**
- 22. MARY, D/O.P.V.VARKEY, DO. DO.**
- 23. P.V.LEELA, D/O.P.V.VARKEY, PATTULLIL HOUSE, THIRUVANIYOOR P.O., CHEMMANAD VILLAGE.**
- 24. VITHA, D/O.P.V.VARKEY, DO. DO.**
- 25. CHACKO, S/O.CHACKO, AMMANATTUKUZHYYIL HOUSE, MARANGATTUKUDY KARA, THIRUVANIYOOR VILLAGE.**
- 26. PAILY, S/O.VARGHESE, DO. DO.**
- 27. GEORGE, S/O.CHACKO, DO. DO.**
- 28. K.O.MATHAI, AGED 49 YEARS, KOTHAMMATTATHIL, THIRUVANIYOOR.**
- 29. K.O.PAULOSE, AGED 47, YEARS, KOTHAMMATTATHIL, THIRUVANIYOOR.**
- 30. K.O.GEORGE, AGED 45 YEARS, DO. DO.**
- 31. MRS.GOURIKUTTY NAIR, W/O.KRISHNANKUTTY NAIR, PERUMPILLIL HOUSE, THIRUVANIYOOR VILLAGE, THIRUVANIYOOR.**
- 32. MR.SATHEESAN NAIR, S/O.KRISHNANKUTTY NAIR, DO. DO.**
- 33. GIRIJA SUKUMARAN NAIR, D/O. DO. DO.**
- 34. SOBHANA MOHANAN, D/O. DO. DO.**
- (*) Addl.35. MRS.ANNAMMA CHACKO, W/O.A.C.CHACKO, AMMATHUKUZHYYIL, THIRUVANIYOOR.**

- 36. A.C.PETER, W/O.A.C.CHACKO,
AMMATHUKUZHIYIL, THIRUVANIYOOR.**
- 37. MRS.A.C.SUSAN, D/O.A.C.CHACKO AND WIFE OF
KURIACHAN, C/O.L.E.B.INDIA LTD., ELECTROGIRI,
MULANTHURUTHY.**
- 38. LILLY JOSE, D/O.A.C.CHACKO, NON RESIDENT,
NOW AT KUWAIT, LAST KNOWN ADDRESS:
C/O.ANNAMMA CHACKO, AMMATHUKUZHIYIL HOUSE,
THIRUVANIYOOR P.O., ERNAKULAM DISTRICT.**

() Addl.39. SMT.KARTHIYANI, W/O.K.V.CHATHAN, NOW RESIDING
AT THEKKELAKKADU, VAZHAPPILLY P.O.,
MUVATTUPUZHA.**

- 40. MS.REKHA, D/O.LATE K.V.CHATHAN, NOW RESIDING
AT THEKKELAKKADU, VAZHAPPILLY P.O.,
VIA. MUVATTUPUZHA.**

**(Addl. Respondents 35 to 38 are the legal representatives of deceased
7th respondent and are impleaded as per order in CMP.No.4089/2002
dated 9-8-2002. It is also reported that respondents 25 and 27 who are
already in the party array are also the legal representatives of deceased
7th respondent.)**

**(Addl.Respondents 39 & 40 are the legal representatives of deceased
4th respondent and are impleaded as per order dated 9-8-2002 in CMP.
No.4091 of 2002.)**

**BY ADV. SRI.V.P.YOHANNAN
SRI.JOSHI VARGHESE
SRI.T.M.CHANDRAN
SRI.JOSHI VARGHESE**

For R3 to 6, 9 to 11, 13 & 25 to 30.

**THIS CIVIL MISC. APPEAL HAVING BEEN FINALLY HEARD
ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

KURIAN JOSEPH

&

T.R.RAMACHANDRAN NAIR, JJ.

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CMA.No. 211 of 2000.

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Dated this the 30th day of May, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal from the order in E.A.No.779/1999 in E.P.No.326/1987 in O.S.No.401/1979 on the file of the Principal Sub Court, Ernakulam. The application for restoration of the execution petition was dismissed mainly on the ground that the legal heirs of the 19th judgment debtor are not impleaded. It is submitted that the defect has been cured subsequently before this Court in this appeal. When the appeal came up for hearing, it was fairly submitted that the respondents are not against the restoration and they are interested in seeing that the execution is finally closed at the earliest. In view of the above submission, we set aside the impugned order, allow the petition E.A.No.779/1999 on the file of the Prl. Sub Court Ernakulam and restore E.P.No.326/1987 to files. There will be a direction to the execution court to dispose of the execution petition by

completing the execution proceedings within a period of six months. The parties will appear before the execution court on 1-7-2007.

The appeal is disposed of as above.

KURIAN JOSEPH, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-